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Transcript Exhibit(s)

Docket #(s): T-02847A-08-0164

T-01051B-08-0164

Exhibit #: A1-A3, S1-S4

Arizona Corporation Commission
DOCKETED

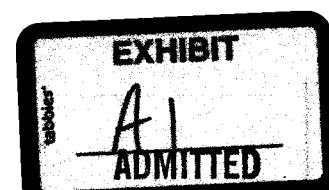
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DOCKET CONTROL
AZ CORP COMMISSION

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BEFORE THE ARIZONA CORPORATION COMMISSION
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COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

2008 MAR 18 P 4: 38

AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE JOINT
APPLICATION OF ACCIPITER
COMMUNICATIONS, INC. AND
QWEST CORPORATION FOR
ACCIPITER TO EXTEND ITS
CERTIFICATE OF CONVENIENCE
AND NECESSITY AND TO DELETE A
PORTION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
FAVOR OF QWEST AND FOR
QWEST TO EXTEND ITS SERVICE
AREA AND DELETE A PORTION OF
ITS SERVICE AREA IN FAVOR OF
ACCIPITER.

DOCKET NO. T-02847A-08-_____

DOCKET NO. T-01051B-08-_____

JOINT APPLICATION

INTRODUCTION

Pursuant to the provisions of A.R.S. §§40-281 *et seq.*, and A.A.C. R14-2-502, Accipiter Communications, Inc., dba Zona Communications ("Zona") and Qwest Corporation ("Qwest") (collectively the "Companies"), jointly petition the Arizona Corporation Commission ("Commission") for an Order that:

1) Authorizes the deletion of a portion of Qwest's Service Area and the extension of Zona's Certificate of Convenience and Necessity ("CC&N") to include such deleted Qwest portion ("Zona Extension Area");

2) Authorizes the deletion of a portion of Zona's CC&N and the transfer of such portion to Qwest to be included in Qwest's Service Area ("Qwest Extension Area");¹

3) Authorizes Zona to charge those rates and charges in the Zona Extension Area that are set forth in the existing Zona tariffs on file with the Commission;

¹ The Zona Extension Area and the Qwest Extension Area are collectively referred to herein as the "Extension Areas."

4) Authorizes Qwest to charge those rates and charges in the Qwest Extension Area that are contained in the existing Qwest tariffs on file with the Commission; and

5) States that the Commission does not object to the grant of a waiver by the Federal Communications Commission ("FCC") of the Study Area boundary freeze that would allow Zona and Qwest to modify their respective Study Areas consistent with the changes authorized in the Order.

This Application is supported by the following:

SECTION I

Pursuant to a CC&N granted by the Commission in Decision No. 59346 (ACC Docket No. U-02847A-95-0026), dated October 11, 1995, Zona provides local exchange carrier and other telecommunications services to approximately 116 customers with approximately 191 access lines in portions of Maricopa and Yavapai Counties, Arizona.

Qwest provides local exchange carrier and other telecommunications services in Arizona subject to the jurisdiction of the Commission. These services are provided in accordance with Qwest's rate and tariffs on file with the Commission. Qwest owns, operates, and controls plant and facilities for the provisioning, sale, and transmission of telecommunications services in Arizona pursuant to authority recognized by the Commission. Qwest's Service Area within Arizona includes the areas identified in Qwest's Boundary Maps that are on file with the Commission.

ZONA EXTENSION AREA

SECTION II

On August 29, 2006, the Commission issued Decision No. 68913² that contained the following finding:

A final matter raised in Staff's Engineering Report involves an unserved area adjacent to Accipiter's Lake Pleasant Exchange known as "GW Holdings." Accipiter's finance application included \$2,061,400 for infrastructure designs for this area, which

² Docket No. T-02487A-05-0846, *In the Matter of the Application of Accipiter Communications, Inc. for Approval of a Finance Application to Assume New Debt*.

1 assumes the addition of 1,000 customers by 2009. However, the
2 GW Holdings property is currently within Qwest's service area.
3 Accipiter and Qwest have discussed a possible transfer of the
4 service area to Accipiter, and Staff recommends an explicit
5 ordering paragraph requiring Accipiter to file a CC&N extension
6 application for the GW Holdings property within 24 months of this
7 Decision. Absent such an extension being granted, Staff
8 recommends that Accipiter not be permitted to draw on the loan for
9 the \$2,061,400 that the Company projects is needed for
10 infrastructure to serve the GW Holdings property.³

11 Decision No. 68913 further ordered Zona to:

12 [f]ile a CC&N extension application for the GW Holdings property
13 within 24 months of this Decision as a condition of being permitted
14 to draw on the loan for the \$2,061,400 that the Company projects is
15 needed for infrastructure to serve the GW Holdings property."⁴

16 The GW Holdings property is now known as the Lake Pleasant 5000 property.
17 This application for an extension of Zona's CC&N is intended, in part, to comply with
18 Decision No. 68913.

19 SECTION III

20 As acknowledged in Decision No. 68913, the Lake Pleasant 5000 property is
21 currently within Qwest's Service Area and immediately adjacent to Zona's Lake Pleasant
22 Exchange. Qwest has agreed to transfer the Lake Pleasant 5000 property to Zona.
23 Additionally, Qwest has agreed to transfer to Zona an additional three and one half
24 adjacent sections north of the Lake Pleasant 5000 property to "square off" Zona's CC&N
25 so that these sections may be combined with Zona's adjacent Lake Pleasant Exchange.
26 Qwest does not have facilities to serve the Zona Extension Area whereas Zona can readily
27 extend its existing facilities from its Lake Pleasant Exchange. Moreover, Zona has had
28 preliminary discussions with a developer who intends to develop within the Lake Pleasant
5000 property, and who is interested in receiving service from Zona since it will be more
cost effective for Zona to provide service to the Zona Extension Area given the proximity

³ Decision at page 5, Finding of Fact No. 16.

⁴ Decision at page 7, lines 23-26.

1 to existing Zona facilities within its Lake Pleasant Exchange.

2 **SECTION IV**

3 A map depicting the requested Zona Extension Area is attached hereto as Exhibit
4 "A" and incorporated herein by this reference. Specifically, Zona seeks to extend its
5 CC&N to include the following areas that will be deleted from Qwest's Service Area:

6 Township 6 North, Range 2 West, G&SRB&M: All of Sections 4, 5, 6, 7, 8, 9, 17,
7 18; and Township 7 North Range 2 West, G&SRB&M: All of Sections 31, 32, 33 and the
8 west half of Section 34.

9 **QWEST EXTENSION AREA**

10 **SECTION V**

11 The Qwest Extension Area is east of the White Tank Regional Park and is currently
12 within the CC&N of Zona. Zona and Qwest have agreed that this territory would be
13 transferred from Zona to Qwest subject to Commission approval. Zona has no customers
14 or facilities within this territory. Qwest's Service Area is immediately adjacent to the
15 Qwest Extension Area. Moreover, Qwest already has facilities that traverse this area and
16 is currently serving a customer within Section 29, which is within the Qwest Extension
17 Area.

18 **SECTION VI**

19 A map depicting the requested Qwest Extension Area is attached hereto as Exhibit
20 "B" and incorporated herein by this reference. Specifically, Qwest seeks to extend its
21 Service Area to include the following areas that will be deleted from Zona's CC&N:

22 Township 3 North, Range 2 West, G&SRB&M: All of Sections 29 and 32, the
23 west half of Section 28 and the southeast quarter of Section 31.

24 **SECTION VII**

25 Zona and Qwest will provide those local exchange services within the respective
26 Extension Areas that are identified in the Companies' tariffs on file with the Commission
27 that includes all rates, charges, and terms of service.

28

1 **SECTION VIII**

2 Accipiter Communications Inc., dba Zona Communications, is incorporated under
3 the laws of the State of Nevada and is registered as a foreign corporation in the State of
4 Arizona. Zona is in good standing in both states. Zona's business address and telephone
5 number are:

6 2238 West Lone Cactus Drive, Suite 100
7 Phoenix, Arizona, 85027-2641
8 Phone: (928) 501-5000

9 Qwest is incorporated under the laws of the State of Colorado and is
10 registered as a foreign corporation in the State of Arizona. Qwest is in good standing in
11 both states. Qwest's business address and telephone number are:

12 20 E. Thomas Road
13 Phoenix, Arizona, 85012
14 Phone: (602) 630-8221

15 **SECTION IX**

16 Zona and Qwest are established local exchange carriers in Arizona, with demonstrated
17 financial stability. Financial data for the Companies is contained in the Companies'
18 respective annual reports on file with the Commission.

19 **SECTION X**

20 As there are plans for development within the Zona Extension Area, and Qwest's facilities
21 already traverse the Qwest Extension Area and there is an existing Qwest customer, the
22 Companies have agreed to the transfer of territory as set forth herein. Moreover, public
23 convenience and necessity exists for telephone service within the Extension Areas. Each
24 of the Companies has the requisite managerial expertise, technical expertise, and financial
25 wherewithal to provide a superior level of service to customers in the Extension Areas.

26 **SECTION XI**

27 The Extension Areas are not located within the incorporated limits of a city and are
28

1 entirely within Maricopa County. Both Companies have the authority to use the public
2 rights-of-way within Maricopa County. No other city, county, or state agency approvals
3 are required.

4 SECTION XII

5 The Companies will provide notice of this Application as the Commission may
6 order.

7 SECTION XIII

8 All correspondence regarding this Application should be directed to the
9 Companies' attorneys as follows:

10 For Zona:

11 Jeffrey W. Crockett, Esq.
12 Bradley S. Carroll, Esq.
13 SNELL & WILMER
14 One Arizona Center
15 Phoenix, Arizona 85004-2202
16 Phone: (602) 382-6234
17 Fax: (602) 382-6070
18 E-mail: jcrockett@swlaw.com
19 bcarroll@swlaw.com

20 And for Qwest:

21 Norman G. Curtright, Esq.
22 20 E. Thomas Road, 16th Floor
23 Phoenix, AZ 85012
24 Phone: (602) 630-2187
25 Fax: (303) 383-8484
26 E-mail: norm.curtright@qwest.com

27 CONCLUSION

28 WHEREFORE, Zona and Qwest respectfully request that the Commission
expeditiously set this Application for hearing and issue its Order that: (i) authorizes the
deletion of the portion of Qwest's Service Area fully described herein and extend Zona's
CC&N to include those deleted portions; (ii) authorizes the deletion of the portion of
Zona's CC&N fully described herein and adding such deleted portion to Qwest' Service
Area; iii) authorizes Zona and Qwest to charge those rates and charges in the respective
Extension Areas that are in the Companies' tariffs on file with the Commission; and (iv)

1 states that the Commission does not object to the grant of a waiver by the FCC of the
2 Study Area boundary freeze that would allow Zona and Qwest to modify their respective
3 Study Areas consistent with the changes authorized in the Order.

4 RESPECTFULLY SUBMITTED this 18th day of March, 2008.

5 SNELL & WILMER L.L.P.

6
7 By 

8 Jeffrey W. Crockett
9 Bradley S. Carroll
10 One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2202
Attorneys for Zona Communications

11 QWEST CORPORATION

12
13 By 

14 Norman G. Curtright
15 20 E. Thomas Road, 16th Floor
Phoenix, AZ 85012
Attorney for Qwest Corporation

16
17 ORIGINAL and 13 copies filed this
18 18th day of March, 2008, with:

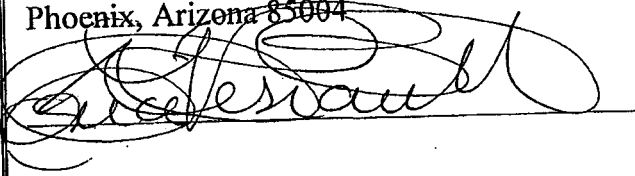
19 Docket Control
ARIZONA CORPORATION COMMISSION
20 1200 West Washington Street
Phoenix, Arizona 85004

21 COPIES of the foregoing hand-delivered
22 this 18th day of March, 2008, to:

23 Ernest Johnson, Director
Utilities Division
ARIZONA CORPORATION COMMISSION
24 1200 West Washington Street
25 Phoenix, Arizona 85004

26 Christopher Kempley, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
27 1200 West Washington Street
28 Phoenix, Arizona 85004

1 Lyn Farmer, Chief Administrative Law Judge
2 ARIZONA CORPORATION COMMISSION
3 1200 West Washington Street
4 Phoenix, Arizona 85004

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Exhibit A
Zona Extension Area

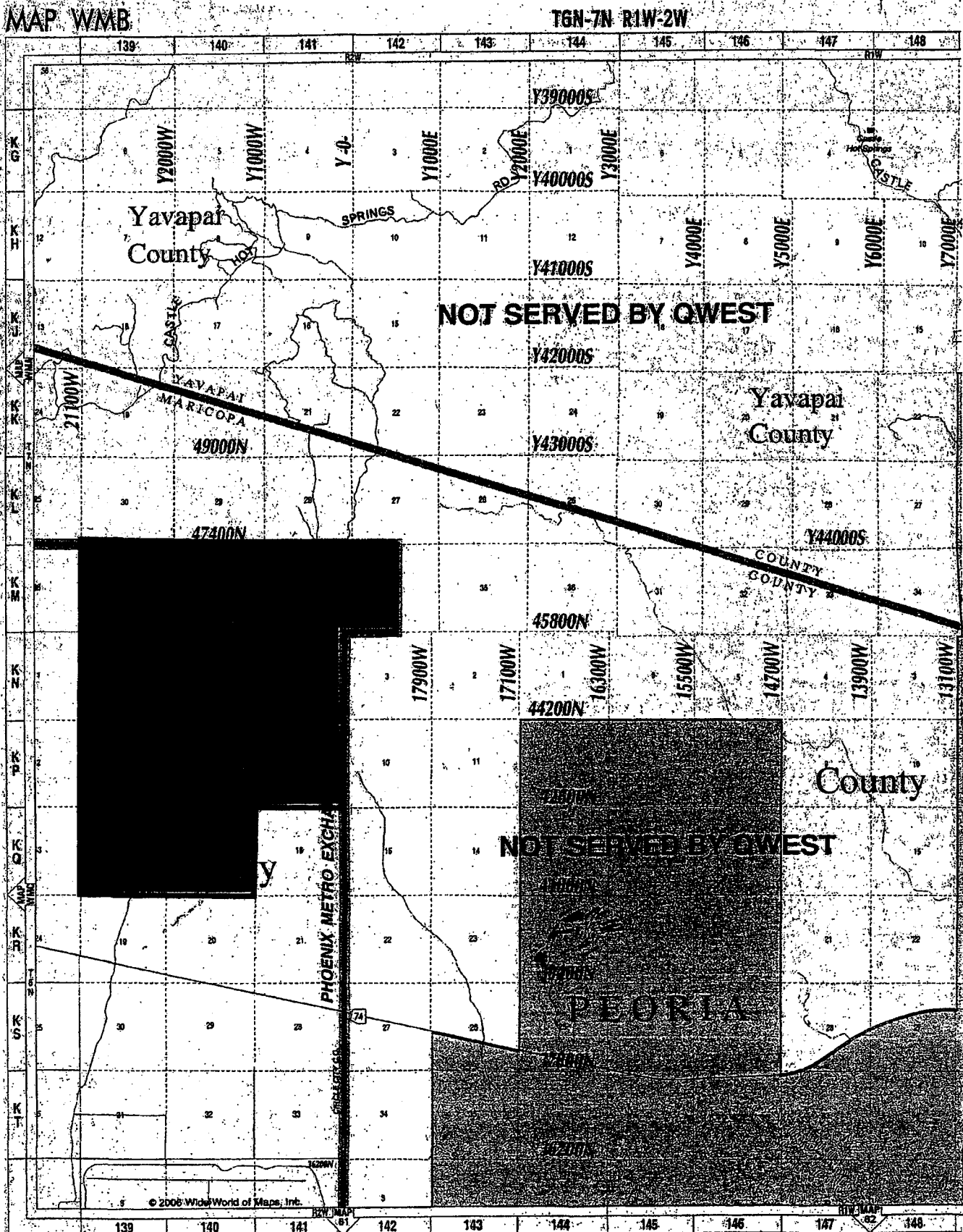
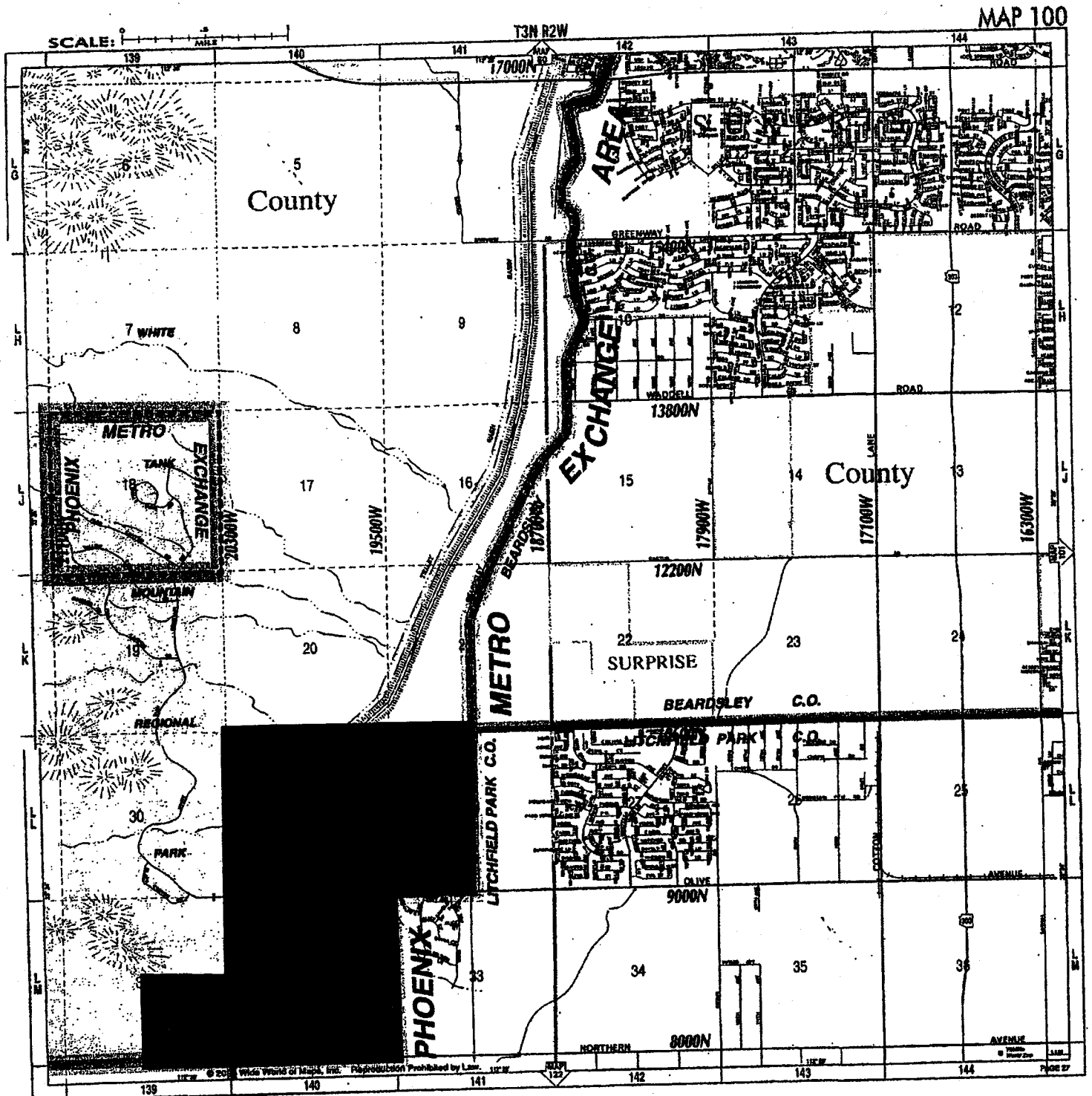
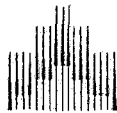
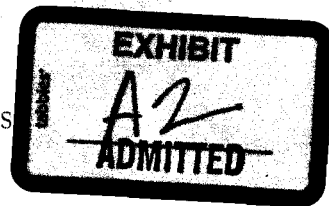


Exhibit B
Qwest Extension Area





HARVARD INVESTMENTS
A HILL COMPANY



RECEIVED

May 1, 2007

Mr. Patrick Sherrill
Accipiter Communications
President and Chief Executive Officer
2238 West Lone Cactus Drive, Suite 100
Phoenix, Arizona 85255


RE: Lake Pleasant 5000 Service Area

Dear Mr. Sherrill:

Thank you for your April 6th proposal to service the Lake Pleasant 5000 development. I enjoyed learning about Accipiter and would like to confirm Harvard Investments acceptance of the offer to serve the Lake Pleasant 5000 area.

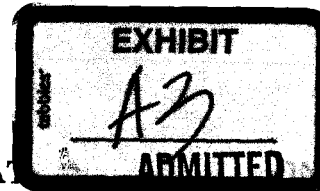
If there are any documents and or contracts to continue the process please forward them to my office.

Sincerely,



Christopher J. Cacheris

cc: Mr. Tim Pohland, Cyclone Consulting Services



BEFORE THE ARIZONA CORPORATE

COMMISSIONERS

MIKE GLEASON, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
KRISTIN K. MAYES
GARY PIERCE

IN THE MATTER OF THE JOINT
APPLICATION OF ACCIPITER
COMMUNICATIONS, INC. AND
QWEST CORPORATION FOR
ACCIPITER TO EXTEND ITS
CERTIFICATE OF CONVENIENCE
AND NECESSITY AND TO DELETE A
PORTION OF ITS CERTIFICATE OF
CONVENIENCE AND NECESSITY IN
FAVOR OF QWEST AND FOR
QWEST TO EXTEND ITS SERVICE
AREA AND DELETE A PORTION OF
ITS SERVICE AREA IN FAVOR OF
ACCIPITER.

DOCKET NO. T-02847A-08-0164

DOCKET NO. T-01051B-08-0164

**ACCIPITER'S COMMENTS
REGARDING THE STAFF REPORT
DATED SEPTEMBER 15, 2008**

Snell & Wilmer

LLP
LAW OFFICES
One Arizona Center, 400 E. Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6000

Pursuant to the July 30, 2008, Procedural Order, Accipiter Communications, Inc., dba Zona Communications ("Accipiter"), through counsel undersigned, hereby files its comments¹ to the Utilities Division's Staff Report dated September 15, 2008 ("Staff Report") in the above-captioned matter.

Accipiter supports the Staff Report and the recommendations and conclusion contained therein.² However, page 3 of the Staff Report states:

Staff would note that the area code for the Zona Extension Area would change from 623 to 928 but this would have no effect on the scope of the local calling area for future customers as Accipiter's exchanges are part of the Phoenix local calling areas.

Accipiter hereby requests that the Commission permit the Zona Extension Area to remain in the 623 area code for the following reasons:

...

¹ The July 30, 2008, Procedural Order required that any objections to the Staff Report be filed on or before October 3, 2008.

² See Staff Report, Recommendations and Conclusion, pages 6 and 7.

1 1. The developer/property owner of the Lake Pleasant Exchange that requested
2 local exchange service from Accipiter also requested that the Zona Extension Area remain
3 within the 623 area code. A copy of a letter sent by the developer to the Arizona
4 Corporation Commission is attached as Attachment A.

5 2. The Zona Extension Area is currently located within Qwest's Circle City
6 Exchange, which is in the 623 area code.

7 3. Zona already has the South Lake Pleasant Exchange operating with 623
8 telephone numbers. Consequently, Accipiter will not have any difficulties provisioning
9 the 623 area code from a technical and operational perspective.

10 4. There would not be a restriction on number portability between the
11 Accipiter and Qwest service areas.³

12 5. The residents in the proposed Lake Pleasant 5000 development will most
13 likely do business primarily with the population along the U.S. 60 corridor, which is in the
14 623 area code.

15 6. Accipiter has experienced the following difficulties with its 928 area code
16 telephone numbers:

17 a. Businesses in the Phoenix metro area that do not keep their
18 PBX up to date will fail to complete calls to Accipiter's 928
19 customers because the equipment does not recognize the number as
20 local.

21 b. Accipiter's 928 customers are often initially confused about
22 their ability to call Phoenix numbers (623, 602, and 480) locally. If
23 they try to complete a call using 1+ dialing, the call will not go
24 through.

25 c. Residents in the Phoenix metro area often try to dial 1+ to
26 reach Accipiter's 928 customers, often resulting in a "cannot be
27 completed as dialed" recording and adding to the confusion.

28 ³ See Staff Report, page 3, footnote 10.

d. Accipiter's customers are sometimes confused about their inability to be able to call *all* of the 928 area code as a local call. Many customers assume that since they have a 928 area code, they can call *all* other 928 telephone numbers in northern Arizona without dialing 1+ for long distance, which is not the case.

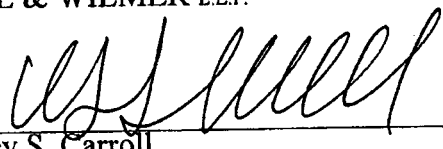
Accipiter has discussed this matter with Qwest, and Qwest has indicated that it has no objection to this request.

On the basis of the foregoing, Accipiter hereby requests that the Commission's final Order contain an ordering paragraph permitting the Zona Extension Area to remain in the 623 area code.

RESPECTFULLY SUBMITTED this 25th day of September, 2008.

SNELL & WILMER L.L.P.

By


Bradley S. Carroll
Jeffrey W. Crockett
One Arizona Center
400 E. Van Buren
Phoenix, AZ 85004-2202
Attorneys for Accipiter Communications, Inc.

ORIGINAL and 15 copies filed this 25th day of September, 2008, with:

Docket Control
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85004

COPIES of the foregoing hand-delivered this 25th day of September, 2008, to:

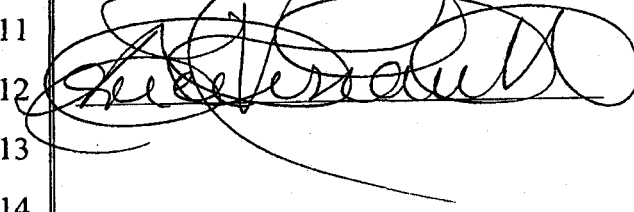
Richard Boyles, Utilities Engineer
Utilities Division
ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85004

1 Maureen Scott, Staff Attorney
Legal Division
2 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
3 Phoenix, Arizona 85004

4 Sarah N. Harpring, Administrative Law Judge
ARIZONA CORPORATION COMMISSION
5 1200 West Washington Street
Phoenix, Arizona 85004

6
7 COPY of the foregoing mailed and e-mailed
this 25th day of September, 2008, to:

8 Norman G. Curtright, Esq.
QWEST CORPORATION
9 20 E. Thomas Road, 16th Floor
Phoenix, AZ 85012
10 Attorney for Qwest Corporation

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Attachment A

HARVARD INVESTMENTS
A HILL COMPANY

September 18, 2008

Arizona Corporation Commission
Consumer Service Section
1200 West Washington
Phoenix, Arizona 85007

Re: Docket Nos. T-02847A-08-0164 et al.

To whom it may concern;


Lake Pleasant 5000 LLC is a property owner in the area identified in the above referenced docket as the "Zona Extension Area." We are currently planning a development for up to 8,500 homes on our property in this area. As such, we wish to express our concern that the Zona Extension Area remain in the 623 area code rather than the 928 area code. We believe this is in the public interest because:

- Most of northern Arizona is in the 928 area code which is primarily long distance calling between the Phoenix metropolitan area. We understand that only a small subset of 928 phone numbers share local calling to the Phoenix metro, thus creating confusion to the public in discerning between local 928 numbers and long-distance 928 numbers.
- The area is currently located in the City of Surprise General Planning Area. The future residents and businesses of our development are most likely to identify with the residential and business population in the Surprise GPA along the US-60 corridor, which is in the 623 area code.

We understand that Accipiter/Zona does not have an objection to keeping the Zona Extension Area as it currently exists within the 623 area code. We respectfully request that the Arizona Corporation Commission keep the Zona Extension Area within the 623 area code.

Please feel free to contact me with any questions.

Sincerely,



Christopher J. Cacheris
Vice President

C: Patrick Sherrill, President of Zona Communications

17700 North Pacesetter Way • Scottsdale, Arizona 85255 • 480.348.1118 • Fax 480.348.8976

LEGAL

MEMORANDUM

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TO: Docket Control
FROM: Ernest G. Johnson
Director
Utilities Division

EA for EGJ
RECEIVED
SEP 15 2008

2008 SEP 15 P 12: 05
AZ CORP COMMISSION
DOCKET CONTROL

DATE: September 15, 2008

LEGAL DIV.
ARIZ. CORPORATION COMMISSION

RE: STAFF REPORT FOR THE JOINT APPLICATION OF ACCIPITER COMMUNICATIONS, INC. AND QWEST CORPORATION FOR ACCIPITER TO EXTEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY AND TO DELETE A PORTION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY IN FAVOR OF QWEST AND FOR QWEST TO EXTEND ITS SERVICE AREA AND DELETE A PORTION OF ITS SERVICE AREA IN FAVOR OF ACCIPITER ("JOINT APPLICATION") (DOCKET NOS. T-02847A-08-0164 AND T-01051B-08-0164)

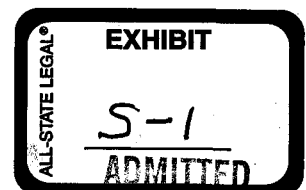
Attached is the Staff Report for Accipiter Communications, Inc.'s Application to amend its Certificate of Convenience and Necessity in Maricopa County and for Qwest Corporation's Application to amend its service area.

Staff recommends that the Commission find that approval of the exchange of service areas identified in the Joint Application is in the public interest. Staff further recommends that:

1. The Companies be required to update their respective service area maps on file with the Commission within sixty (60) days of a Decision granting the Joint Application,
2. The Companies be authorized to apply their respective tariffed rates and charges to the service areas that are approved to be exchanged, and
3. An ordering clause be included which states that the Commission does not object to the grant of a waiver by the FCC of the Study Area boundary freeze that would allow Accipiter and Qwest to modify their respective Study Areas consistent with the changes authorized by the Commission.

EGJ:RLB:red

Originator: Richard Boyles



Service List for: ACCIPITER COMMUNICATIONS, INC. and QWEST CORPORATION
Docket Nos. T-02847A-08-0164 and T-010151B-08-0164

Mr. Jeffrey W. Crockett
Mr. Bradley S. Carroll
Snell & Wilmer
One Arizona Center
400 East Van Buren Street
Phoenix, Arizona 85004-2202

Mr. Norman G. Curtright
Corporate Counsel
Qwest Corporation
20 E. Thomas Road, 16th Floor
Phoenix, Arizona 85012

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Janice Alward
Chief Counsel, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Lyn Farmer
Chief Administrative Law Judge
1200 West Washington Street
Phoenix, Arizona 85007

**STAFF REPORT
UTILITIES DIVISION
ARIZONA CORPORATION COMMISSION**

**ACCIPITER COMMUNICATIONS, INC.
DOCKET NOS. T-02847A-08-0164**

AND

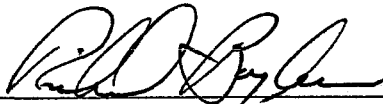
**QWEST CORPORATION
DOCKET NO. T-01051B-08-1064**

**IN THE MATTER OF THE JOINT APPLICATION OF ACCIPITER
COMMUNICATIONS, INC. AND QWEST CORPORATION FOR ACCIPITER TO
EXTEND ITS CERTIFICATE OF CONVENIENCE AND NECESSITY AND TO
DELETE A PORTION OF ITS CERTIFICATE OF CONVENIENCE AND NECESSITY
IN FAVOR OF QWEST AND FOR QWEST TO EXTEND ITS SERVICE AREA AND
DELETE A PORTION OF ITS SERVICE AREA IN FAVOR OF ACCIPITER**

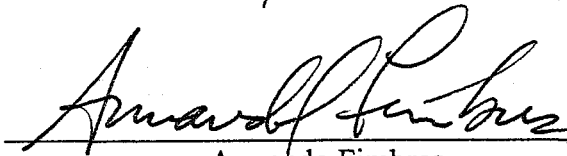
SEPTEMBER 15, 2008

STAFF ACKNOWLEDGMENT

The Staff Report for the Joint Application of Accipiter Communications, Inc. and Qwest Corporation (Docket Nos. T-02847A-08-0164 and T-01051B-08-0164) was the responsibility of the Staff members listed below.



Richard Boyles
Utilities Engineer—Telecommunications



Armando Fimbres
Public Utilities Analyst V

EXECUTIVE SUMMARY
ACCIPITER COMMUNICATIONS, INC.
QWEST CORPORATION
DOCKET NOS. T-02847A-08-0164 AND T-01051B-01-0164

On March 18, 2008, Accipiter Communications, Inc., dba Zona Communications ("Accipiter" or "Zona") and Qwest Corporation ("Qwest") (collectively the "Companies") jointly filed an Application ("Joint Application") that, in general, requested approval for the transfer of certain portions of their respective service areas in the Phoenix metropolitan area from each company to the other, approval for the companies to charge their respective tariffed rates and charges in the transferred areas and a statement that the Commission does not object to the Federal Communications Commission ("FCC") granting a waiver to the Study Area boundary freeze so the companies could modify their respective study areas.

The Zona Extension area primarily covers a proposed development referred to as the Lake Pleasant 5000 property. However it also includes three and one half sections north of the Lake Pleasant 5000 property to "square off" Accipiter's CC&N area. Qwest states it does not have facilities to serve the Zona Extension Area. Accipiter states it can readily extend facilities from its adjacent Lake Pleasant Exchange. Further, Accipiter states it has had preliminary discussions with a developer who intends to develop within the Lake Pleasant 5000 property and who is interested in receiving service from Accipiter.

The Qwest Extension Area is bounded by the White Tank Mountain Regional Park to the west and Qwest service area to the south and east. Accipiter currently has no customers or facilities in this area. Qwest states in part that it has identified one customer located within Township 3 North, Range 2 West, Section 29. Qwest further states that it "discovered it was providing service at this location in approximately July of 2007, at which time it notified Accipiter of the situation and proposed that Accipiter transfer this section to Qwest concurrent with the proposed transfer of the Lake Pleasant 5000 area to Accipiter." Qwest also states that it had been providing service to this customer prior to the section becoming part of Accipiter's CC&N area.

The approved rates and charges for both Companies apply uniformly across the entirety of their respective service areas. The difference in basic service rates would only impact future customers as development occurs. The one existing customer located in the proposed Qwest Extension Area would not be impacted because this customer currently is charged Qwest rates. With respect to the Zona Extension Area, it is Staff's understanding that Accipiter has informed the developer of the difference in basic service rates and also stated to the developer that when Accipiter's basic service is bundled with calling features its rates are generally lower than Qwest's comparable bundles.

Staff recommends that the Commission find that approval of the exchange of service areas identified in the Joint Application is in the public interest. Staff further recommends that:

1. The Companies being required to update their respective service area maps on file with the Commission within sixty (60) days of a Decision granting the Joint Application,
2. The Companies be authorized to apply their respective tariffed rates and charges to the service areas that are approved to be exchanged, and
3. An ordering clause be included which states that the Commission does not object to the grant of a waiver by the FCC of the Study Area boundary freeze that would allow Accipiter and Qwest to modify their respective Study Areas consistent with the changes authorized by the Commission.

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I. Procedural History

On March 18, 2008, Accipiter Communications, Inc., dba Zona Communications ("Accipiter" or "Zona") and Qwest Corporation ("Qwest") (collectively the "Companies") jointly filed an Application ("Joint Application") that, in general, requested approval for the transfer of certain portions of their respective service areas in the Phoenix metropolitan area from each company to the other, approval for the companies to charge their respective tariffed rates and charges in the transferred areas and a statement that the Commission does not object to the Federal Communications Commission ("FCC") granting a waiver to the Study Area boundary freeze so the companies could modify their respective study areas.

On April 15, 2008, Staff issued a Letter of Insufficiency with a First Set of Data Requests to Accipiter and Qwest.

On May 9, 2008 and May 14, 2008 respectively, Qwest and Accipiter filed their responses to the First Set of Data Requests.

On June 11, 2008, Staff issued a Second Letter of Insufficiency with a Second Set of Data Requests to Accipiter.

On June 23, 2008, Accipiter filed its response to the Second Set of Data Requests.

On July 23, 2008, Staff issued a Letter of Sufficiency on Accipiter and Qwest's Joint Application.

On July 25, 2008, a Procedural Order was issued scheduling a hearing on the Joint Application and establishing other deadlines.

On July 30, 2008, Accipiter filed a Motion to Modify Procedural Schedule requesting that the hearing be continued for at least 10 days because Accipiter's counsel had a previously scheduled out-of-state commitment.

On July 30, 2008, a Procedural Order was issued re-scheduling the hearing on the Joint Application and establishing other deadlines consistent with the new hearing date.

II. Background

Accipiter was granted a CC&N by the Commission in Decision No. 59346, dated October 11, 1995, to provide local exchange carrier services in portions of Maricopa and Yavapai Counties, including Castle Hot Springs and Lake Pleasant Regional Park. In Decision No. 67574, dated February 15, 2005, the Commission approved the transfer of four sections from Qwest's service area to Accipiter to enable Accipiter to provide service to the entirety of a

master planned community generally known as Vistancia.¹ In Decision No. 67675, dated March 9, 2005, Accipiter's Certificate of Convenience and Necessity ("CC&N") was extended to include previously unserved area located southwest of, but not contiguous to, Accipiter's existing CC&N area.² At the time of the filing of this Joint Application, Accipiter was providing services to approximately 116 customers with approximately 191 access lines.³

Qwest predecessor companies were providing telephony service in Arizona prior to statehood and enactment of the Constitution. As such, Qwest does not hold a CC&N but instead files service area maps which are incorporated into its tariff and approved by the Commission. At the end of June 2008, Qwest was providing service to approximately 1.5 million access lines.⁴

The Corporations Division reported on August 19, 2008 that Accipiter and Qwest are in good standing. According to the Utilities Division Consumer Services Section, as of August 19, 2008 no complaints, inquiries or opinions were filed regarding the Joint Application. In addition, the Utilities Division Compliance Section stated that there were no delinquencies for either Accipiter or Qwest.

III. Staff Analysis of Areas to be Exchanged

A. From Qwest to Accipiter ("*Zona Extension Area*")⁵

The Joint Application identifies the area requested to be transferred from Qwest's service area to that of Accipiter as Township 6 North, Range 2 West, Sections 4, 5, 6, 7, 8, 9, 17 and 18 and Township 7 North, Range 2 West, Sections 31, 32, 33 and the western half of 34.⁶ It is Staff's understanding from the parties that wireless service in this area may be marginal at best.

The Zona Extension area primarily covers a proposed development referred to as the Lake Pleasant 5000 property.⁷ However it also includes three and one half sections⁸ north of the Lake Pleasant 5000 property to "square off" Accipiter's CC&N area. Qwest states it does not have facilities to serve the Zona Extension Area. Accipiter states it can readily extend its facilities from its adjacent Lake Pleasant Exchange. Further, Accipiter states it has had preliminary discussions with a developer who intends to construct within the Lake Pleasant 5000 property and who is interested in receiving service from Accipiter.⁹ In Accipiter's response to STF 1.2, Accipiter provided a copy of a letter from Christopher J. Cacheris stating in part that he "would like to confirm Harvard Investments acceptance of the offer to serve the Lake Pleasant 5000 area."

¹ Accipiter began providing service to customers in Vistancia in February, 2007.

² Accipiter began providing service to customers in its Sun Valley service area in November, 2007.

³ As of July 31, 2007, this had increased to 161 customers with 289 access lines.

⁴ Qwest Second Quarter 2008 Arizona Service Quality Report.

⁵ See Attachment 1 map.

⁶ Joint Application at page 4.

⁷ Previously known as the GW Holdings property.

⁸ Township 7 North, Range 2 West, Sections 31, 32, 33 and the western half of 34.

⁹ Joint Application at page 3.

In Qwest's response to STF 1.11, Qwest states in part that it "has no facilities in that area and no agreements with any potential developers to provide facilities." Qwest also states that "both parties are willing participants to the [Zona Extension Area] transfer and it involves only boundary changes, i.e. no existing customers or facilities are affected by the proposal." Staff would note that the area code for the Zona Extension Area would change from 623 to 928 but this would have no effect on the scope of the local calling area for future customers as Accipiter's exchanges are part of the Phoenix local calling area.¹⁰

In response to STF 2.5, Accipiter states in part that it "plans to begin construction in early 2009 of an inter-exchange fiber-optic cable route from the company's network at Quintero westward along highway 74 to our Sun Valley service area. This fiber optic cable, which is planned regardless of the status of the Lake Pleasant 5000 development, will pass within one mile of the development's southern boundary. Zona will plan access points along this fiber route so that when the highway 74 access for the development is constructed Zona will splice in the fiber route to extend facilities northward within the developer-defined public utility right-of-way." Accordingly, Staff believes it should be relatively easy for Accipiter to extend service into the Zona Extension Area.

In Decision No. 68913, dated August 29, 2006, the Commission approved a financing application for Accipiter. One of the ordering paragraphs of that Decision states:

"IT IS FURTHER ORDERED that, in accordance with Staff's recommendation, Accipiter Communications, Inc. shall file a CC&N extension application for the GW Holdings property within 24 months of this Decision as a condition of being permitted to draw on the loan for the \$2,061,400 that the Company projects is needed for infrastructure to service the GW Holdings property."

The request in the Joint Application to transfer the Zona Extension Area from Qwest to Accipiter meets the requirements of the ordering paragraph in Decision No. 68913. Staff recognizes that the Zona Extension Area includes an additional three and one-half sections to the north of the Lake Pleasant 5000 property to "square off" Accipiter's CC&N area. However Staff believes this is a reasonable addition in that it should be less costly for Accipiter to provide service to those sections than it would be for Qwest. Staff recommends that the transfer of the Zona Extension Area from Qwest to Accipiter be approved.

B. From Accipiter to Qwest ("Qwest Extension Area")¹¹

The Joint Application identifies the area requested to be transferred from Accipiter's service area to that of Qwest as Township 3 North, Range 2 West, Sections 29 and 32, the

¹⁰ Since Accipiter exchanges in the 928 NPA are in a different rate center from Qwest in the 623 NPA, there is a restriction on number portability between the two service areas.

¹¹ See Attachment 1 map.

western half of 28 and the southeast quarter of 31.^{12, 13} It is Staff's understanding from the parties that wireless service in this area may be marginal at best.

Accipiter currently has no customers or facilities in this area.¹⁴ The area is bounded by the White Tank Mountain Regional Park to the west and Qwest service area to the south and east. In response to STF 1.5, Qwest states in part that it has identified one customer located within Township 3 North, Range 2 West, Section 29. Qwest further states that it "discovered it was providing service at this location in approximately July of 2007, at which time it notified Accipiter of the situation and proposed that Accipiter transfer this section to Qwest concurrent with the proposed transfer of the Lake Pleasant 5000 area to Accipiter." Qwest also states that it had been providing service to this customer prior to the section becoming part of Accipiter's CC&N area.

In response to STF 1.6, Qwest states in part that it has a "100 pair cable which runs through the Qwest Extension Area on Olive Rd turning onto White Tanks Mountain Rd into the non contiguous territory in Section 18."

Staff would note that the area code for the Qwest Extension Area would change from 928 to 623 but this would have no effect on the scope of the local calling area for future customers as Accipiter's exchanges are part of the Phoenix local calling area.¹⁵ There would also be no impact on the one existing customer since the customer already has a Qwest assigned number in the 623 NPA. Further, it is Staff's understanding that Qwest Extension Area primarily consists of county land with only four parcels being owned by other private or public entities.

Staff recognizes that the Qwest Extension Area includes an additional one and three-quarters sections other than the section Qwest's customer resides within. This addition serves to "square off" Qwest's service area. However Staff believes this is a reasonable addition in that it should be less costly for Qwest to provide service to those sections than it would be for Accipiter. Staff recommends that the transfer of the Qwest Extension Area from Accipiter to Qwest be approved.

C. Rates and Charges

The Joint Application requests approval for Accipiter to charge those rates and charges in the Zona Extension Area that are set forth in the existing Accipiter tariffs on file with the Commission. The Joint Application also requests approval for Qwest to charge those rates and charges in the Qwest Extension Area that are set forth in the existing Qwest tariffs on file with the Commission.¹⁶

¹² Joint Application at page 4.

¹³ Joint Application at page 4.

¹⁴ Joint Application at page 4.

¹⁵ Since Accipiter exchanges in the 928 NPA are in a different rate center from Qwest in the 623 NPA, there is a restriction on number portability between the two service areas.

¹⁶ Joint Application at pages 1,2.

A comparison of basic service rates between the two companies is as follows:

	Accipiter	Qwest	
Residential	\$16.78	\$13.18	Qwest Extension Area
	\$16.78	\$14.68 ¹⁷	Zona Extension Area
Business	\$35.78	\$30.40	Qwest Extension Area
	\$35.78	\$31.90 ¹⁸	Zona Extension Area

Qwest's monthly recurring rates for basic service would be lower than Accipiter if the transfer of the Qwest Extension Area is approved. Qwest's tariff includes a Provisioning Agreement For Housing Developments ("PAHD") which may require payment by a developer for some of the cost to construct new facilities. However, at this time, there are no known developments for the Qwest Extension Area that would be impacted.

Since Accipiter makes use of United States Department of Agriculture Rural Development¹⁹ financing, it is precluded from charging construction or line extension charges. Qwest's tariff includes a PAHD which may require payment by a developer for some of the cost to construct new facilities. Although Accipiter's monthly recurring rates for basic service would be higher than Qwest if the transfer of the Zona Extension Area is approved, this is somewhat offset by the benefit received from having no construction or line extension charges with Accipiter as the service provider. It is Staff's understanding that Accipiter has informed the developer of the difference in basic service rates and also stated to the developer that when Accipiter's basic service is bundled with calling features its rates are generally lower than Qwest's comparable bundles.

The approved rates and charges for both Companies apply uniformly across the entirety of their respective service areas. The difference in basic service rates would only impact future customers as development occurs. The one existing customer located in the proposed Qwest Extension Area would not be impacted because this customer currently is charged Qwest rates. Therefore Staff recommends that the Commission approve the request of Accipiter and Qwest to charge those rates and charges that are set forth in the existing tariffs on file with the Commission for the Zona Extension Area and Qwest Extension Area respectively.

D. Federal Communications Commission ("FCC") Waiver of Study Area Boundary Freeze

The Joint Application requests an Order which approves the exchange of service area also state "that the Commission does not object to the grant of a waiver by the Federal Communications Commission ("FCC") of the Study Area boundary freeze that would allow Zona and Qwest to modify their respective Study Areas consistent with the changes authorized in the Order."²⁰

¹⁷ Includes Exchange Zone Increment charge of \$1.50 for Zone 2.

¹⁸ Id.

¹⁹ Also known as Rural Utilities Service ("RUS").

²⁰ Joint Application at page 2.

The FCC froze study area boundaries as of November 15, 1984 to prevent holding companies from setting up high cost exchanges within their existing territories as separate companies in order to maximize high cost support.²¹ The FCC also stated study area were not frozen to preclude the acquisition of high cost exchanges or expansion of service territories to high cost areas.

In general, in reviewing study area waiver petitions, the FCC considers whether: 1) the change in study area boundaries will adversely affect the universal service fund, 2) a state commission having regulatory authority over the transferred area has opposed the transfer and 3) the transfer is in the public interest.

Accipiter and Qwest each have only one study area within Arizona. There are no Qwest customers currently being served, nor any Qwest facilities, within the Zona Extension Area. Therefore there is no immediate impact upon the universal service fund by approval of the transfer of this area from Qwest to Accipiter. Similarly, there are no Accipiter customers currently being served, nor any Accipiter facilities, within the Qwest Extension Area. Therefore there is no immediate impact upon the universal service fund by approval of the transfer of this area from Accipiter to Qwest. Further the one Qwest customer located within the area would have a *de minimus* impact on Qwest's study area. In addition, Qwest does not receive high cost loop support for its rural service area due to the impact of averaging its costs statewide.

In response to STF 1.11, Accipiter stated that to the extent its "initial investment to serve the Zona Extension Area could increase its average investment per access line, Zona's Federal USF could increase. However, as the development begins to achieve density and thus decrease Zona's average investment per access line, Federal USF could decrease." Staff believes that any future change in the amount of funding received by Accipiter due to the transfer of service areas would be of *de minimus* impact to the High Cost Fund.

In general, federal universal service policy promotes the availability of communications services in an efficient, widespread manner and with adequate facilities at reasonable charges. The transfer of the two identified extension areas allows each area to be served by the provider that can most efficiently provide service. Accordingly, Staff recommends that any Order approving the exchange of service areas include an ordering clause which states that the Commission does not object to the grant of a waiver by the FCC of the Study Area boundary freeze that would allow Accipiter and Qwest to modify their respective Study Areas consistent the changes authorized by the Commission.

IV. Recommendations and Conclusion

Staff recommends that the Commission find that approval of the exchange of service areas identified in the Joint Application is in the public interest. Staff further recommends that:

²¹ See *In The Matter of MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, Recommended Decision & Order, 57 RR 2d 267, 290 ¶ 65 (1984).

1. The Companies be required to update their respective service area maps on file with the Commission within sixty (60) days of a Decision granting the Joint Application,
2. The Companies be authorized to apply their respective tariffed rates and charges to the service areas that are approved to be exchanged, and
3. An ordering clause be included which states that the Commission does not object to the grant of a waiver by the FCC of the Study Area boundary freeze that would allow Accipiter and Qwest to modify their respective Study Areas consistent with the changes authorized by the Commission.

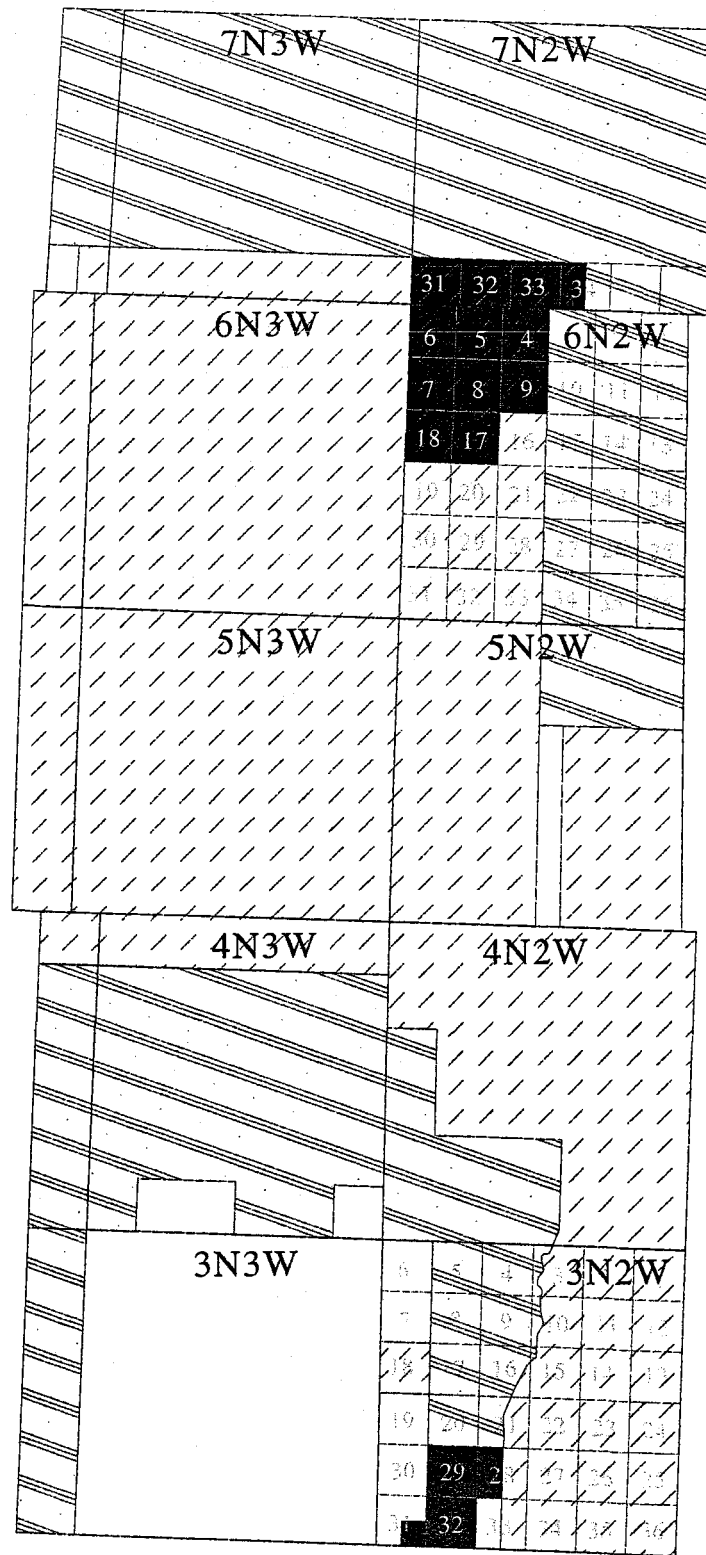
ACCIPITER COMMUNICATIONS, INC.

DOCKET NO. T-02847A-08-0164

QWEST CORPORATON

DOCKET NO. T-01051B-08-0164

Attachment 1



ACCIPITER (ZONA)
COMMUNICATIONS, INC.



QWEST
COMMUNICATIONS, I



ZONA EXTENSION
DELETED FROM QWEST



QWEST EXTENSION
DELETED FROM ZON

Snell & Wilmer
L.L.P.
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May 14, 2008

VIA HAND DELIVERY

Richard Boyles
Utilities Engineer
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

Re: STAFF'S APRIL 15, 2008, LETTER OF INSUFFICIENCY AND ACCIPITER
COMMUNICATIONS, INC. DBA ZONA COMMUNICATION'S
RESPONSES TO STAFF'S FIRST SET OF DATA REQUESTS
DOCKET NOS. T-02847A-08-0164 and T-01051B-08-0164

Dear Mr. Boyles:

Enclosed are Zona Communications' Responses to Staff's First Set of Data Requests dated April 15, 2008. Please do not hesitate to contact me if you have any questions.

Sincerely,

Snell & Wilmer



Bradley S. Carroll

BSC:dc
Enclosure

cc: Docket Control (original and 15 copies)
Patrick Sherrill (via e-mail)
Norman Curtright, Esq. (via e-mail)
Reed Peterson (via e-mail)

LEGAL

LAS VEGAS

ORANGE COUNTY

PHOENIX

SALT LAKE CITY

TUCSON

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LEGAL DIV.
ARIZ. CORPORATION COMM

EXHIBIT

5-2
ADMITTED

STA. 1'S FIRST SET OF DATA REQUESTS TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164

April 15, 2008

STF 1.1 Please provide copies of any data requests served on Accipiter Communications Inc. ("Accipiter," "Zona," or the "Company") by any other party in this docket and Accipiter's responses thereto.

Response: Zona has not received any data requests by any other party in this docket.

Prepared by: Patrick Sherrill
President/CEO
Zona Communications
2238 West Lone Cactus Drive, Suite 100
Phoenix, Arizona 85027-2641
623-455-4500
psherrill@teamzona.com

**STA. 2'S FIRST SET OF DATA REQUESTS TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164**

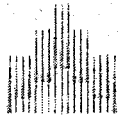
April 15, 2008

STF 1.2 Has Zona received any requests for service from anyone located within the area referred to in the Joint Application as the Zona Extension Area? If yes, please attach copies of the requests.

Response: Zona received a request from Harvard Investments. A copy of the request is attached as Exhibit A to this response.

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Exhibit A
to
STF 1.2



HARVARD INVESTMENTS
A HILL COMPANY

RECEIVED

May 1, 2007

Mr. Patrick Sherrill
Accipiter Communications
President and Chief Executive Officer
2238 West Lone Cactus Drive, Suite 100
Phoenix, Arizona 85255

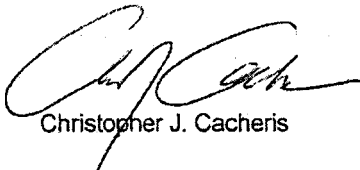
RE: Lake Pleasant 5000 Service Area

Dear Mr. Sherrill:

Thank you for your April 6th proposal to service the Lake Pleasant 5000 development. I enjoyed learning about Accipiter and would like to confirm Harvard Investments acceptance of the offer to serve the Lake Pleasant 5000 area.

If there are any documents and or contracts to continue the process please forward them to my office.

Sincerely,



Christopher J. Cacharis

cc: Mr. Tim Pohland, Cyclone Consulting Services

STAFF'S FIRST SET OF DATA REQUESTS TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164

April 15, 2008

STF 1.3 Has Zona received any requests for service from anyone located within the area referred to in the Joint Application as the Qwest Extension Area? If yes, please attach copies of the requests.

Response: Zona has not received any requests for service from anyone located within the Qwest Extension Area.

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STAFF'S FIRST SET OF DATA REQUEST TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164

April 15, 2008

STF 1.4 Do potential customers to whom service has not been extended currently exist in the Qwest Extension Area? If yes, please identify the quantity, their approximate location and the reasons for which Zona has not extended service.

Response: Zona is not aware of any unserved potential customers. It is our understanding that Qwest has an existing establishment in this area that is served by Qwest's facilities.

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STAFF'S FIRST SET OF DATA REQUESTS TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164

April 15, 2008

STF 1.5 Does Zona continue to believe that the financing that was approved in Decision 68913 is sufficient for the construction of facilities to serve the Lake Pleasant 5000 property? If no, how does Zona propose to make up any shortfall?

Response: Zona believes that the financing approved in Decision 68913 is sufficient for construction of facilities to serve the Lake Pleasant 5000 property.

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**STAFF'S FIRST SET OF DATA REQUEST TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164**

April 15, 2008

STF 1.6 Please describe the facilities Zona would construct to serve the Lake Pleasant 5000 property and the types of services offered.

Response: Zona proposes to construct fiber-to-the-home network facilities as we have deployed within other master-planned communities within our service area. We would offer our full suite of services to customers in the Lake Pleasant 5000 property, which currently includes basic telephone, custom calling and CLASS telephone features, long distance, and broadband internet services. We will also be able to provide high-capacity data circuits which are normally required for some business applications.

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STAFF'S FIRST SET OF DATA REQUESTS TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164

April 15, 2008

STF 1.7 What is the estimated timeframe for when the developer would begin sales at the Lake Pleasant 5000 property?

Response: It is Zona's understanding that the development is currently still in planning stages and Zona has not been advised of any firm date for the beginning of sales.

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**STAFF'S FIRST SET OF DATA REQUESTS TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164**

April 15, 2008

STF 1.8 When would Zona be required to start constructing its facilities within the Lake Pleasant 5000 property?

Response: As stated in its response in STF 1.7 above, it is Zona's understanding that the development is currently still in planning stages and Zona has not been advised of any firm date for the beginning of sales. Once the developer notifies Zona specifically when it will start construction of the development, and after the Commission approves this application for an extension of its CC&N, Zona will schedule the construction of its facilities within the Lake Pleasant 5000 property.

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STAFF'S FIRST SET OF DATA REQUESTS TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164

April 15, 2008

STF 1.9 Does Zona know who will provide cable video services in the Lake Pleasant 5000 property? If yes, please supply the name of the cable video provider.

Response: Zona does not have knowledge of any other cable video service providers who may choose to serve Lake Pleasant 5000.

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**STAFF'S FIRST SET OF DATA REQUEST TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164**

April 15, 2008

STF 1.10 What would the impact be if the FCC were not to approve a Study Area waiver for the proposed exchange of service areas?

Response: If the FCC did not approve the Study Area Waiver, Zona would not be able to utilize the NECA tariffs to charge interexchange carriers for switched or special access. Additionally, Zona would not be able to participate in the NECA pool, and would not receive Federal USF as an ILEC. Further, Zona would be required to apply separate accounting, jurisdictional separations, and access charge rules just for the Zona Extension Area.

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**STAFF'S FIRST SET OF DATA REQUESTS TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164**

April 15, 2008

STF 1.11 Should the exchange of service area be approved, how does Accipiter anticipate that its receipt of funds from the Federal Universal Service Fund will be impacted?

Response: To the extent that Zona's initial investment to serve the Zona Extension Area could increase its average investment per access line, Zona's Federal USF could increase. However, as the development begins to achieve density and thus decreases Zona's average investment per access line, Federal USF could decrease.

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**STAKEHOLDER'S FIRST SET OF DATA REQUESTS TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164**

April 15, 2008

STF 1.12 For what reasons did Accipiter agree to the proposed exchange of service area with Qwest and why does Accipiter believe such a transfer is in the Public Interest?

Response: Zona agreed to the exchange of service area, and believes that such exchange is in the public interest, because it allows both Qwest and Zona to provide service by the company whose facilities are best situated to serve each of the areas being transferred. Additionally, Zona believes that the public interest is further served by this transfer because it will ensure that future residents and businesses in the respective areas have access to Eligible Telecommunications Carriers.

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**STAFF'S FIRST SET OF DATA REQUEST TO
ACCIPITER COMMUNICATIONS, INC.
DOCKET NO. T-02847A-08-0164**

April 15, 2008

STF 1.13 Are there any developments that extend across the boundary of Accipiter's current service area and the Zona Extension area? If yes, please describe.

Response: Zona is not aware of any developments that extend across the boundary of the current service area and the Zona Extension Area.

Prepared by: Patrick Sherrill
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STAFF'S SECOND SET OF DATA REQUESTS
ACCIPITER COMMUNICATIONS, INC. DBA ZONA COMMUNICATIONS' RESPONSES
DOCKET NO. T-02847A-08-0164

T-02847A-08-0164

June 11, 2008

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STF 2.1

Please provide the time frame over which Zona has discussed the possibility of serving the Lake Pleasant development with the development prior to Zona's April 6, 2007 proposal to Harvard Investments and the nature of such contacts.

Response:

The April 6, 2007 letter from Accipiter (now Zona) refers to a March 28, 2007 meeting, which was the first meeting between Zona's current management and Harvard Investments. Zona's current management (which has been in place since November 2006) is unaware of any prior meetings between the company and Harvard Investments.

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**STAFF'S SECOND SET OF DATA REQUESTS
ACCIPITER COMMUNICATIONS, INC. DBA ZONA COMMUNICATIONS' RESPONSES
DOCKET NO. T-02847A-08-0164**

June 11, 2008

STF 2.2 In the attachment provided with the Company's response to STF 1.2, Harvard Investments inquires as to the necessity for "any documents and or contracts to continue the process". Has the Company entered into any binding contracts with Harvard Investments?

Response: No.

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DOCKET NO. T-02847A-08-0164

June 11, 2008

STF 2.3 If the Company's response to STF 2.2 above is yes, please identify such documents or contracts and provide a summary of their purpose.

Response: N/A.

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ACCIPITER COMMUNICATIONS, INC. DBA ZONA COMMUNICATIONS' RESPONSES
DOCKET NO. T-02847A-08-0164**

June 11, 2008

STF 2.4 Please discuss any meetings the Company has had with Harvard Investments since its May 1, 2007 letter and the general nature of such contacts.

Response: There have not been any face-to-face meetings between Zona and Harvard since the May 1, 2007 letter. The only contacts since that time have been via short phone conversations and e-mails to communicate status between Zona Communications and the planning for the Lake Pleasant 5000 development.

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DOCKET NO. T-02847A-08-0164

June 11, 2008

STF 2.5 Section III of the Company's Application states that "Zona can readily extend its existing facilities from its Lake Pleasant Exchange" to serve the Lake Pleasant 5000 property. Please generally describe the magnitude of the required facility extension from Zona's existing facilities to the edge of the Lake Pleasant 5000 property.

Response: Zona is currently seeking right-of-way clearance and plans to begin construction in early 2009 of an inter-exchange fiber-optic cable route from the company's network at Quintero westward along highway 74 to our Sun Valley service area. This fiber cable, which is planned regardless of the status of the Lake Pleasant 5000 development, will pass within one mile of the development's southern boundary. Zona will plan access points along this fiber route so that when the highway 74 access for the development is constructed Zona will splice into the fiber route to extend facilities northward within the developer-defined public utility right-of-way.

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303-383-6679: Phone
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AZ CORP COMMISSION
DOCKET CONTROL

Kathy Rowley
Staff Paralegal-Interrogatory Manager

May 8, 2007

VIA HAND OR OVERNIGHT DELIVERY

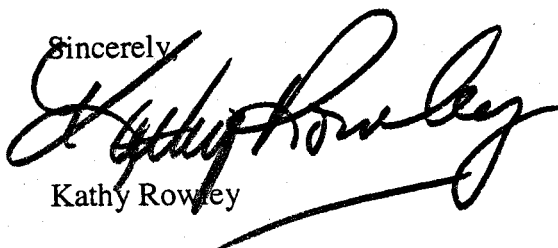
Richard Boyles
Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007
rboyles@azcc.gov

Re: Staff's Letter of Insufficiency and First Set of Data Requests to Qwest Corporation, Docket Nos. T-02847A-08-0164 and T-01051B-08-0164

Dear Mr. Boyles:

Enclosed are Qwest's responses to the above-referenced requests, Nos. 001-012. Should you have any questions regarding the attached, you may contact me at (303) 383-6679.

Sincerely,



Kathy Rowley

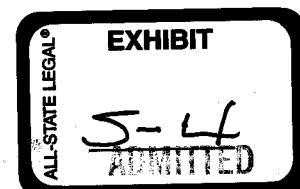
Enclosures

cc: Docket Control
Norman Curtright, Esq.
Bradley S. Carroll, Esq.

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MAY 09 2008

LEGAL DIV.
ARIZ. CORPORATION COMMISSION



Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-001

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 001

Please provide copies of any data requests served on Qwest Corporation ("Qwest" or the "Company") by any other party in this docket and Qwest's responses thereto.

RESPONSE:

To date, Qwest has received no other data requests concerning this matter. Qwest will supplement this response at such time as any future data requests are received.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-002

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 002

Has Qwest received any requests for service from anyone located within the area referred to in the joint Application as the Zona Extension Area? If yes, please copies of the requests.

RESPONSE:

Not to Qwest's knowledge.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-003

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 003

Has Qwest received any requests for service from anyone located within the area referred to in the joint Application as the Qwest Extension Area? If yes, please copies of the requests.

RESPONSE:

Not to Qwest's knowledge.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-004

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 004

Do potential customers to whom service has not been extended currently exist in the Zona Extension Area? If yes, please identify the quantity, their approximate location and the reasons for which Qwest has not extended service.

RESPONSE:

Not to Qwest's knowledge.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-005

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 005

Is the customer identified in Section V of the Joint Application located within the western non-contiguous portion of Qwest Phoenix Metro service area? If no, please explain.

RESPONSE:

No. The customer is located at 20300 W. Olive Ave, which is in Section 29, Township 3N, Range 2W. Qwest's service at this location was installed prior to Accipiter's CC&N Application dated 9/8/2003 which eventually included this area within their service territory. Prior to Decision No. 67675, which approved the expansion of Accipiter's CC&N on March 9, 2005, this section would have been in Open Territory. Qwest discovered that it was providing service at this location in approximately July of 2007, at which time it notified Accipiter of the situation and proposed that Accipiter transfer this section to Qwest concurrent with the proposed transfer of the Lake Pleasant 5000 area to Accipiter.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-006

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 006

Please describe the Qwest facilities which traverse the Qwest Extension Area.

RESPONSE:

No known Qwest facilities exist in the proposed Qwest Extension Area other than the 100 pair cable which runs through the Qwest Extension area on Olive Rd turning onto White Tank Mountain Rd into the non continuous territory in section 18.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-007

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 007

Would Qwest's costs to provide service to the Qwest Extension Area necessitate line extension charges being applied to requests for service within the area?

RESPONSE:

Line Extension charges will not apply, but developers are subject to the PAHD tariff, which permits Qwest to bill for facilities extended to a given development.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-008

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 008

Would the Qwest Extension Area be designated as being within the Phoenix Metro base rate area? If no, please explain.

RESPONSE:

Yes.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-009

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 009

Do any Qwest affiliates have any objections to the proposed exchange of service area requested in the Joint Application? If yes, please explain.

RESPONSE:

No.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-010

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 010

Do all Qwest affiliates accept that this transaction in no way changes the terms and conditions of decisions granting them authority to provide telecommunications within the state of Arizona? If no, please explain.

RESPONSE:

Yes.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-011

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 011

For what reasons did Qwest agree to the proposed exchange of service area with Accipiter and why does Qwest believe such a transfer is in the Public Interest?

RESPONSE:

The proposed exchange of service area is in the public interest because it would allow service to be provided by the company whose facilities are best situated to serve each of the areas being transferred.

Qwest agreed to the transfer of the Lake Pleasant 5000 area to Accipiter because Qwest has no facilities in that area and no agreements with any potential developers to provide facilities. The transfer also is in the public interest because both parties are willing participants to the transfer and it involves only boundary changes, i.e. no existing customers or facilities are affected by the proposal.

Qwest proposed transferring the Qwest Extension Area from Accipiter because Qwest has existing facilities that traverse the area and also because it had been providing service for at least 10 years to a previously unknown customer in this area. The transfer of this area to Qwest is in the public interest because it will allow the customer to continue to receive service from Qwest and avoid having to change carriers. Further, Accipiter has no existing facilities in this area and would have to incur substantial costs to extend its existing service in order to be able to provision service to Qwest's customer.

Arizona
Docket Nos. T-02847A-08-0164 and
T-01051B-08-0164
STF 01-012

INTERVENOR: Arizona Corporation Commission Staff

REQUEST NO: 012

Are there any developments that extend across the boundary of Qwest's current service area and the Qwest Extension area? If yes, please describe.

RESPONSE:

No known developments extend across the boundary of Qwest's current service area and the Qwest Extension area.